

SUPREME COURT RULES

PART V. ATTORNEYS

SUBPART A. BOARD OF BAR EXAMINERS.

Rule 51. Board of Bar Examiners.

(a) *Appointment and term of office.* —The Court shall appoint a Board of Bar Examiners (the “Board”) consisting of such number of members of the Bar as the Court shall determine. Each of the counties shall be represented on the Board. Each member of the Board shall be appointed for a term of 3 years, unless the Court shall order otherwise. No member shall be appointed to serve for more than 3 consecutive terms, unless otherwise ordered by the Court. At the request of the Board, the Court may appoint as a temporary Board member (to perform such duties as shall be prescribed by the Board) any former Board member.

(b) *Duties.* —It shall be the duty of the Board to administer Rules 51 through 55. The Board shall examine applicants for admission to the Bar upon principles of law and equity at least once a year. The Court shall select a Chair, a Vice Chair and a Secretary. The duties of the Secretary shall be prescribed by the Board. The Court may also appoint an Executive Director who shall not be a member of the Board.

(c) *Powers.* —The Board shall have the power:

- (1) *Internal operating rules.* —To adopt rules of procedure for the conduct of its duties;
- (2) *Bar admission rules.* —Subject to the approval of the Court, to adopt general rules, in furtherance of and supplemental to the Rules of the Court, relating to the admission to the Bar;
- (3) *Subpoenas.* —In connection with the performance of its duties, to take testimony under oath and to compel the attendance of witnesses and the production of documents by the filing of a praecipe for a subpoena with the Clerk of the Supreme Court, service of such subpoena to be made in a manner prescribed by the Clerk;
- (4) *Fees.* —To require the payment by each applicant for admission to the Bar, prior to or after examination, of reasonable fees relating to the application process, the administration of the Bar Examination and the admission process, including without limitation expenses incurred in connection with the character investigation set forth in subparagraph (6);

(5) *Stenographers.* —To employ such stenographic or other assistance as may from time to time be necessary or proper; and

(6) *Character investigation.* —To conduct such investigation of an applicant for admission to the Bar prior to or after the Bar Examination as shall be necessary to determine the fitness of such applicant and the applicant's compliance with the Rules of the Court and the Rules of the Board, and to charge any such applicant for expenses incurred in connection with such investigation in addition to the fees generally applicable to all applicants.

(d) *Associate members.* —The Court may appoint associate members of the Board to assist each member of the Board. Each associate member shall have been a member of the Bar for at least 5 years. Each associate member shall be appointed for a term of three years and shall have such duties and functions as shall be prescribed by the Board. Associate members of the Board shall not have the power to vote upon any determination or decision of the Board.

(e) *Members-Elect.* —The Court may appoint up to 2 Members-Elect per year to assist in the function and operation of the Board. Each Member-Elect shall be appointed for a term of 1 year and shall have such duties and functions as shall be prescribed by the Board. Members-Elect shall not have the power to vote upon any determination or decision of the Board.

Rule 52. Admission to the Bar — General.

(a) *Requirements for admission.* —No person shall be admitted to the Bar unless the applicant shall have qualified by producing evidence satisfactory to the Board:

(1) *Character and aptitude.* —That the applicant is a person of good moral character and reputation and that the applicant possesses such qualities, aptitudes and disposition as fit the applicant for the practice of law.

(2) *Preceptor.* —That the applicant is vouched for by a member of the Bar of this State who shall have been a member of the Bar of this State for at least 10 years, and such person shall be designated as the Preceptor for such applicant.

(3) *Age.* —That the applicant is at least 21 years of age.

(4) *College or university.* —That the applicant has completed the pre-legal education necessary to meet the minimum requirements for admission to a law school that at the time of graduation was listed on the American Bar Association list of approved law schools. In the event that the applicant was admitted to such a law school without having first received a baccalaureate degree or its equivalent from an

accredited college or university (the method of such accreditation to be determined by the Board), the applicant shall supply to the Board a copy of the law school's statement of considerations in the applicant's file or other supporting statement from the law school, satisfactory to the Board, setting forth the basis for the law school's decision to admit notwithstanding the absence of such a degree.

- (5) *Law school.* —That the applicant has been regularly graduated with a juris doctor degree or its equivalent from a law school which at the time of conferring such degree was listed on the American Bar Association list of approved law schools.
- (6) *Multistate Professional Responsibility Examination.* —That the applicant has taken the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners at such time as the Board shall determine and has achieved such score as the Board shall determine to be necessary for admission.
- (7) *Bar Examination.* —That the applicant has been examined upon principles of law and equity and has been found by the Board based upon the applicant's performance on such examinations to be qualified to practice as an attorney.
- (8) *Clerkship.* —That, as shall be certified by both the applicant and the applicant's Preceptor, the applicant has served a clerkship in the State of Delaware under the direct and constant supervision of a member of the Bar of this State qualified as set forth in subparagraphs (i)-(iii) aggregating substantially full-time service for at least 12 weeks' duration, which period need not be continuous but which may not begin prior to matriculation at a law school described in subparagraph (5) of paragraph (a) of this Rule 52. For purposes of this Rule 52(a)(8), a week means a forty-hour work week.
 - (i) *Law office/legal department.* —In the office of or under the direct and constant supervision of the applicant's Preceptor, or under the direct and constant supervision of such other member of the Bar of this State who is satisfactory to the applicant's Preceptor and who has been a member of the Bar of this State for at least 5 years;
 - (ii) *Law clerk.* —As a law clerk of a justice or judge of the courts of this State or of a United States judge residing in Delaware; or
 - (iii) *Public office.* —In the office of the Department of Justice of the State of Delaware, the office of the Public Defender of the State of Delaware, the office of the United States Attorney for the District of Delaware, the office of the City Solicitor of the City of Wilmington, the office of Community Legal Aid Society, Inc., the office of Delaware Volunteer Legal Services, Inc. or in the office of a related or similar organization approved by the Board upon the

request of an applicant, under the direct and constant supervision of a member of the Bar of this State who has been a member of the Bar of this State for at least 5 years.

(9) *Checklist of legal activities.* —That the applicant has performed such legal tasks and activities related to the practice of law in Delaware as the Board shall direct and furnish in the form of a checklist to all applicants for admission, with the completion of such tasks and activities to be certified by both the applicant and the applicant's Preceptor.

(10) *Pre-admission program.* —That the applicant has satisfactorily attended a pre-admission session of instruction called by the Court or by the Board upon such subjects as the Court or the Board shall from time to time determine to be appropriate instruction for those seeking admission to the Bar, and has paid a fee established by the Court or the Board to the Clerk of the Supreme Court.

(11) *Other requirements.* —That the applicant has complied with such other requirements as the Board may prescribe from time to time, with the approval of the Court.

(12) *Military service exception.* —In the event that an applicant satisfies all of the requirements for admission to the Bar except completion of the clerkship and/or attendance at the pre-admission program, and the applicant made a good faith effort to complete those requirements but was unable to do so because he or she was called to active duty in any of the armed services of the United States after taking the Bar Examination, then, in the discretion of the Court, the applicant shall be qualified to be admitted to the Bar conditionally. Upon taking the oath, the applicant would then become a member of the Bar for all purposes, subject to the following: (i) if the applicant completes the clerkship requirement within six months after release from active duty and attends the next pre-admission program called by the Court or the Board, his or her admission to the Bar will be made unconditional; (ii) if the applicant fails to complete those requirements, the applicant's conditional admission to the Bar may be revoked by the Court and the Court may order such other sanctions as may be warranted in the circumstances.

(aa) *Proof of qualifications.* The applicant bears the burden of proof to establish by clear and convincing evidence that the applicant has met all of the qualifications set forth in paragraph (a) of this Rule. Refusal of an applicant to furnish available information or to answer questions relating to the applicant's qualifications shall be deemed a sufficient basis for denial of admission.

(b) *Application for admission to the Bar.* —A person seeking admission to the Bar shall complete and file an application for admission to the Bar at such time prior to the administration of the Bar Examination as the Board shall determine. The Board may deny

an applicant permission to take the Bar Examination if the applicant has failed to comply with the instructions of the Board regarding the application process.

(c) *Deadline for completion of requirements for admission.* —An applicant for admission to the Bar must have satisfied the requirements for admission and be admitted by December 31 of the calendar year following the year in which the applicant passes the Bar Examination. Except for good cause shown to the Board, an applicant who fails to satisfy the requirements for admission to the Bar within the time prescribed shall not be admitted without retaking the Bar Examination.

(d) *Certification.* —Upon approval of the qualifications of any applicant for admission to the Bar, the Board shall execute and deliver to the applicant a certificate of the applicant's qualifications for admission to the Bar.

(e) *Appeals from actions of the Board.* —Any person aggrieved by final action of the Board may appeal to the Court for relief if such action affects the substantial rights of the person claimed to be aggrieved, except that decisions of the Board with respect to a specific grade or grades assigned to any individual applicant are final and shall not be subject to review by the Court. The appeal shall be commenced by serving 2 copies thereof upon the Chair and the Executive Director of the Board and by filing the original and 1 copy with the Clerk of the Court in compliance with Rule 7, such service and filing to be accomplished within 30 days of the action of the Board. No appeal shall be accepted unless the provisions of this paragraph have been timely fulfilled. Appeals from the Board's action to the Court shall be briefed in accordance with Rule 15, argued and determined from the record of the matter before the Board of Bar Examiners and not by means of a hearing de novo. Findings by the Board relating to disputed issues of fact and credibility will not be reversed by the Court if such findings are sufficiently supported by the record and are the product of an orderly and logical deductive process.

Rule 53. Admission to the Bar — Attorneys admitted elsewhere.

Repealed effective Feb. 21, 1984.

Rule 54. Admission in open court; oath.

Application for admission to the Bar shall be made in open court at any session of the Court or in the chambers of any Justice of the Court. Upon the admission of any person, the name of such person shall be forwarded by the Clerk of the Court to the Prothonotary and to the Register in Chancery in each of the counties of this State to be properly recorded by them. Every attorney shall, on the attorney's admission, subscribe to the roll of attorneys and take and subscribe the following oath or affirmation:

“I , do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Delaware; that I will behave myself in the office of an Attorney within the Courts according to the best of my learning and ability and with all good fidelity as well to the Court as to the client; that I will use no falsehood nor delay any person’s cause through lucre or malice.”

Rule 55. Limited permission to practice in certain public programs.

(a) *Limited permission to practice.* —Attorneys admitted to practice in other jurisdictions or graduates of law schools described by Rule 52(a)(5) who are employed by or associated with Delaware Volunteer Legal Services, Community Legal Aid Society, Inc., Legal Services Corporation of Delaware, Inc., the Department of Justice of the State of Delaware, the Office of the City Solicitor of the City of Wilmington, the Office of the Public Defender, Office of the Child Advocate of the State of Delaware, the New Castle County Office of Law, the Non-profit Pro Bono Committee of the Delaware State Bar Association, the United States District Court for the District of Delaware’s Federal Civil Panel, or attorneys who are admitted to practice in other jurisdictions and are associated with a legal assistance program approved or recognized by the Board, may, in the discretion of the Board, be permitted to practice in the courts and administrative tribunals of this State in matters involving such office or the clients of such program. The requirements, qualifications and procedures for such permission shall be set forth in the Rules of the Board.

(b) *Application and oath.* —Application for permission to practice before the courts and administrative tribunals of this State under paragraph (a) of this Rule shall be made in open court at any session of the Court or in the chambers of any Justice of the Court. Each applicant shall, on being granted such permission, take and subscribe the following oath or affirmation:

“I , do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Delaware and that I shall conduct myself strictly in accordance with all the terms and conditions of the Rules of the Delaware Supreme Court and the Rules of the Board of Bar Examiners; that I will behave myself within the Courts and administrative tribunals according to the best of my learning and ability and with all good fidelity as well to the Court as to the client; that I will use no falsehood nor delay any person’s cause through lucre or malice.”

(c) *Limited permission is not admission to the Bar.* —Applicants who are granted limited permission to practice under this Rule shall not be deemed to have been duly admitted to the practice of law before the Court.

Rule 56. Admission of Eligible Law Student to limited practice as a legal intern.

(a) Limited practice as legal intern. —Notwithstanding the provisions of any other Rule of this Court or the Delaware State Board of Bar Examiners to the contrary, an Eligible Law Student, as hereinafter defined, may appear in the Family Court, the Court of Common Pleas, the Justice of the Peace Courts and before the State Human Relations Commission, in the following proceedings, subject to the following conditions.

(1) Family Court. —In the Family Court in proceedings:

(i) Civil matters. —In all civil matters;

(ii) Criminal matters. —

(A) Arbitration. —In arbitration or mediation;

(B) Commissioner and Master. —Before a Commissioner or Master;

(C) Judge. —On appeal from the foregoing to a Judge of the Family Court.

(2) Court of Common Pleas. —Before the Court of Common Pleas in any case involving any offense set forth in Title 21 of the Delaware Code except driving a vehicle while under the influence of alcohol offenses and cases where a person sustained a serious physical injury.

(3) Justice of the Peace. —In the Justice of the Peace Courts in any matter.

(4) Human Relations Commission. —Before the State Human Relations Commission in all proceedings within its jurisdiction.

(5) Environmental Appeals Board. —Before the Environmental Appeals Board in all proceedings within its jurisdiction.

(6) Written consent. —Before an Eligible Law Student shall begin such representation, the party to be represented shall consent thereto by executing form I attached hereto, which shall be witnessed by the supervising attorney or by the presiding Master or Justice of the Peace and filed in the record of the proceedings.

(b) Eligibility of students. —

(1) Definition. —An “Eligible Law Student” under this rule is a student registered and attending an American Bar Association approved law school who has successfully completed four semesters as a full-time law student. Such Eligible Law Student must be certified by the Dean of the law school as being of good character and competent legal ability and eligible to participate in the legal intern program. Certification is to be made on Form II, attached hereto, and filed with the Clerk of the Supreme Court.

(2) Supervision. —In any appearance of an Eligible Law Student, the student shall be supervised by an attorney of an agency specified in paragraph (e) hereof, duly admitted to practice in this State, who shall appear as counsel of record. Such attorney shall be personally present in any proceeding before a Judge of the Family Court or Court of Common Pleas unless such personal appearance is waived by the Family Court or Court of Common Pleas.

(3) Certification. —In all appearances, the Eligible Law Student shall file with the Court or the Commission in which the student appears a written certification from the student's supervisor indicating the name of the student and supervisor and case or cases in which the Eligible Law Student is authorized to appear.

(4) Oath. —An Eligible Law Student shall file the oath or affirmation attached hereto as Form III prior to any appearance. The supervising attorney shall witness such oath or affirmation and file it with the Clerk of the Supreme Court.

(c) Compensation prohibited. —An Eligible Law Student may neither ask for nor receive any compensation or remuneration of any kind for the student's services from or on behalf of, the person for whom the student renders services. This shall not prevent the student from receiving compensation from any agency listed under Paragraph (e) hereof, nor shall this prevent any agency from making such charges and payments for its services as it may otherwise properly require or receive as statutory fees and allowances.

(d) Supervision. —The member of the Bar under whose supervision an Eligible Law Student does any of the things permitted by this Rule shall:

(1) File oath. —Witness and file the oath or affirmation with the Clerk of this Court.

(2) Consent to representation. —Witness the Consent to Representation on Form I as required pursuant to paragraph (a) of this Rule.

(3) Personal professional responsibility. —Assume personal professional responsibility for the student's guidance in any work undertaken and for supervising the quality of the student's work.

(4) Preparatory assistance. —Assist the Eligible Law Student in the student's preparation to the extent that the supervising lawyer considers it necessary.

(e) Supervision and placement. —Supervision and student placement under this Rule shall be in and by the following agencies only:

(1) Attorney General's Office of the State of Delaware

(2) Public Defender

(3) An organized legal aid or legal assistance program sponsored, approved or recognized by the State Board of Bar Examiners.

(4) Office of the Child Advocate.

(f) Coordination. —The Dean of the law school at which an Eligible Law Student is registered or the head of any listed in Paragraph (e) of this Rule shall act as coordinator of an Eligible Law Student under this Rule.

(g) Certification. —The certification of an Eligible Law Student

(1) Duration. —Shall remain in effect, unless sooner withdrawn, until the announcement of the results of the first Delaware Bar Examination following the student's graduation, if registered to sit for that examination, or if not until graduation from the law school. For any student who passes that examination, the certification shall continue in effect until the date the student is admitted to the Bar.

(2) Withdrawal. —May be withdrawn by the Dean at any time by mailing a notice to that effect to the Dean of the law school at which the student is registered and to the Clerk of this Court. It is not necessary that the notice state the cause for withdrawal.

(3) Termination. —May be terminated at any time, without hearing and without any showing of cause, by this Court, the Dean of the law school at which the student is registered or the head of the agency in which the student is being supervised.